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**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Citizenship and Immigration Services**

**[CIS No. 2568-15; DHS Docket No. USCIS-2015-0003]**

**RIN 1615-ZB39**

**Designation of Nepal for Temporary Protected Status**

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** Through this Notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) has designated Nepal for Temporary Protected Status (TPS) for a period of 18 months, effective **[Insert date of publication in the FEDERAL REGISTER]** through December 24, 2016. Under section 244(b)(1)(B) of the Immigration and Nationality Act (INA), 8 U.S.C. 1254a(b)(1)(B), the Secretary is authorized to designate a foreign state (or any part thereof) for TPS upon finding that the foreign state has experienced an earthquake resulting in a substantial, but temporary, disruption of living conditions.

This designation allows eligible Nepalese nationals (and aliens having no nationality who last habitually resided in Nepal) who have continuously resided in the United States since **[Insert date of publication in the FEDERAL REGISTER]**, and have been continuously physically present in the United States since **[Insert date of publication in the FEDERAL REGISTER]** to be granted TPS. This Notice also describes the other eligibility criteria applicants must meet.

Individuals who believe they may qualify for TPS under this designation may apply

within the 180-day registration period that begins on **[Insert date of publication in the FEDERAL REGISTER]** and ends on December 21, 2015. They may also apply for Employment Authorization Documents (EAD) and for travel authorization. Through this Notice, DHS also sets forth the procedures for nationals of Nepal (or aliens having no nationality who last habitually resided in Nepal) to apply for TPS, EADs, and travel authorization with U.S. Citizenship and Immigration Services (USCIS).

**DATES:** This designation of Nepal for TPS is effective on **[Insert date of publication in the FEDERAL REGISTER]** and will remain in effect through December 24, 2016. The 180-day registration period for eligible individuals to submit TPS applications begins **[Insert date of publication in the FEDERAL REGISTER]**, and will remain in effect through December 21, 2015.

**FOR FURTHER INFORMATION CONTACT:**

- For further information on TPS, including guidance on the application process and additional information on eligibility, please visit the USCIS TPS Web page at <http://www.uscis.gov/tps>. You can find specific information about this designation of Nepal for TPS by selecting “TPS Designated Country: Nepal” from the menu on the left of the TPS Web page.
- You can also contact the TPS Operations Program Manager at the Family and Status Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529-2060; or by phone at (202) 272-1533 (this is not a toll-free number). **Note:** The phone number provided here is solely for questions regarding this TPS Notice. It is not for individual case status inquires.
- Applicants seeking information about the status of their individual cases can check Case

Status Online, available at the USCIS Web site at <http://www.uscis.gov>, or call the USCIS National Customer Service Center at 800-375-5283 (TTY 800-767-1833).

- Further information will also be available at local USCIS offices upon publication of this Notice.

## **SUPPLEMENTARY INFORMATION:**

### **Table of Abbreviations**

BIA – Board of Immigration Appeals

DHS – Department of Homeland Security

EAD – Employment Authorization Document

FNC – Final Nonconfirmation

Government – U.S. Government

IJ – Immigration Judge

INA – Immigration and Nationality Act

OSC – U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices

SAVE – USCIS Systematic Alien Verification for Entitlements Program

Secretary – Secretary of Homeland Security

TNC – Tentative Nonconfirmation

TPS – Temporary Protected Status

TTY – Text Telephone

USCIS – U.S. Citizenship and Immigration Services

### **What is Temporary Protected Status (TPS)?**

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the INA, or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to work and to obtain EADs, so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may be granted travel authorization as a matter of discretion.
- The granting of TPS does not result in or lead to lawful permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(2).
- When the Secretary terminates a country's TPS designation through a separate Federal Register notice, beneficiaries return to the same immigration status they maintained before TPS, if any (unless that status has since expired or been terminated), or to any other lawfully obtained immigration status they received while registered for TPS.

### **What authority does the Secretary have to designate Nepal for TPS?**

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate U.S. Government (Government) agencies, to designate a foreign state (or part thereof) for TPS if the Secretary finds that certain country conditions exist.<sup>1</sup> The Secretary can designate a foreign state for TPS if the Secretary determines that one or more of three bases exist. One basis is if the Secretary finds that “. . . (i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial,

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<sup>1</sup> As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002, Public Law 107-296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to DHS “shall be deemed to refer to the Secretary” of Homeland Security. See 6 U.S.C. 557 (codifying the Homeland Security Act of 2002, tit. XV, section 1517).

but temporary, disruption of living conditions in the area affected, (ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and (iii) the foreign state officially has requested designation for TPS . . . .” INA section 244(b)(1)(B), 8 U.S.C. 1254a(b)(1)(B).

Following the designation of a foreign state for TPS, the Secretary may then grant TPS to eligible nationals of that foreign state (or eligible aliens having no nationality who last habitually resided in that state). See INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A). Applicants must demonstrate that they satisfy all eligibility criteria, including that they have been “continuously physically present” in the United States since the effective date of the designation, which is either the date of the Federal Register Notice announcing the designation or such later date as the Secretary may determine, and that they have “continuously resided” in the United States since such date as the Secretary may designate. See INA sections 244(a)(1)(A), (b)(2)(A), (c)(1)(A)(i–ii); 8 U.S.C. 1254a(a)(1)(A), (b)(2)(A), (c)(1)(A)(i–ii).

### **Why is the Secretary designating Nepal for TPS through December 24, 2016?**

On April 25, 2015, a magnitude 7.8 earthquake struck Nepal. The earthquake’s epicenter was less than 50 miles from the capital city, Kathmandu, and Pokhara, another major city in central Nepal. Approximately 25 to 33 percent of Nepal’s population (over 8 million people) in 39 of Nepal’s 75 districts has been affected by the earthquake. There have been numerous aftershocks since the April 25 earthquake, with the strongest striking on May 12 and measuring magnitude 7.3. The May 12 aftershock contributed to additional casualties and resulted in the collapse of some buildings that had suffered damage in the April 25 earthquake. The earthquake and its aftershocks have caused over 8,700 fatalities and more than 20,000 injuries, displaced millions of people, and resulted in destruction or significant damage to over 750,000 homes. The

UN estimates 2.8 million people are in need of humanitarian assistance.

The earthquake severely damaged much of the country's infrastructure in the affected areas, including the capital of Kathmandu. Earthquake-related rubble litters urban population centers, and many roads have been destroyed or rendered impassable. Infrastructure damage from the earthquake has jeopardized food security, with over 1.4 million people estimated to be in need of food assistance. Displaced persons have varying access to basic services, such as shelter, water, sanitation, and hygiene and many continue to live outdoors. Medical care was also affected by the earthquake, with over 25 hospitals damaged and more than 900 village health facilities rendered nonfunctional. At least 950,000 children in Nepal are at risk of being unable to return to school or are learning in temporary structures because their schools have been destroyed, damaged.

The institutional capacity of the Nepalese government to respond to the immediate effects of the earthquake alone is low.

The April 25 earthquake and its aftershocks caused enormous damage in Nepal's rural areas that are difficult to access because of the mountainous terrain and limited numbers of undamaged roads. With the 2015 monsoon season starting this month, remote areas will face additional threats, including landslides and flooding, and providing aid to them may become more difficult.

Based upon review of these conditions and after consultation with appropriate Government agencies, the Secretary has determined that:

- There has been an earthquake, flood, drought, epidemic, or other environmental disaster in Nepal resulting in a substantial, but temporary, disruption of living conditions in the area affected. See INA section 244(b)(1)(B)(i), 8 U.S.C. 1254a(b)(1)(B)(i);

- Nepal is unable, temporarily, to handle adequately the return of aliens who are nationals of Nepal. See INA section 244(b)(1)(B)(ii), 8 U.S.C. 1254a(b)(1)(B)(ii);
- Nepal has officially requested designation for TPS. See INA section 244(b)(1)(B)(iii), 8 U.S.C. 1254a(b)(1)(B)(iii);
- The designation of Nepal for TPS will be for an 18-month period from **[Insert date of publication in the FEDERAL REGISTER]** through December 24, 2016. See INA section 244(b)(2), 8 U.S.C. 1254a(b)(2);
- The date by which applicants for TPS under the designation of Nepal must demonstrate that they have continuously resided in the United States is **[Insert date of publication in the FEDERAL REGISTER]**. See INA section 244(c)(1)(A)(ii), 8 U.S.C. 1254a(c)(1)(A)(ii);
- The date by which applicants for TPS under the designation of Nepal must demonstrate that they have been continuously physically present in the United States is **[Insert date of publication in the FEDERAL REGISTER]**, the effective date of this designation of Nepal for TPS. INA sections 244(b)(2)(A), (c)(1)(A)(i), 8 U.S.C. 1254a(b)(2)(A), (c)(1)(A)(i); and
- An estimated 10,000 to 25,000 nationals of Nepal (and persons without nationality who last habitually resided in Nepal) are (or are likely to become) eligible for TPS under this designation. INA section 244(b)(1), 8 U.S.C. 1254a(b)(1). This estimate is based on the total number of Nepalese nationals believed to be in the United States in a nonimmigrant status or without lawful immigration status.

## **Notice of the Designation of Nepal for TPS**

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, after consultation with the appropriate Government agencies, I designate Nepal for TPS under INA section 244(b)(1)(B), 8 U.S.C. 1254a(b)(1)(B), for a period of 18 months from **[Insert date of publication in the FEDERAL REGISTER]** through December 24, 2016.

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**Jeh Charles Johnson,**  
Secretary.

## **Required Application Forms and Application Fees to Register for TPS**

To register for TPS for Nepal, an applicant must submit each of the following two applications:

1. Application for Temporary Protected Status (Form I-821) with the form fee; and
  2. Application for Employment Authorization (Form I-765).
- For administrative purposes, an applicant must submit an Application for Employment Authorization (Form I-765) even if no EAD is requested.
  - If you want an EAD you must pay the Application for Employment Authorization (Form I-765) fee only if you are age 14 through 65.
  - No fee for Application for Employment Authorization (Form I-765) is required if you are not requesting an EAD with an initial TPS application. Additionally, no fee is required if you are requesting an EAD and you are under the age of 14 or over the age of 65.

You must submit both completed application forms together. If you are unable to pay the required fees, you may apply for a waiver for these application fees and/or the biometrics services fee described below by completing a Request for Fee Waiver (Form I-912), or submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the application forms and fees for TPS, please visit the USCIS TPS Web page at <http://www.uscis.gov/tps>. Fees for Application for Temporary Protected Status (Form I-821), Application for Employment Authorization (Form I-765), and biometric services are also described in 8 CFR 103.7(b).

### **Biometric Services Fee**

Biometrics (such as fingerprints) are required for all applicants 14 years of age or older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to

pay for the biometric services fee, you may request a fee waiver by completing a Request for Fee Waiver (Form I-912) or by submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the biometric services fee, please visit the USCIS Web site at <http://www.uscis.gov>. If necessary, you may be required to visit an Application Support Center to have your biometrics captured.

### **Re-Filing a TPS Application After Receiving a Denial of a Fee Waiver Request**

If you request a fee waiver when filing your TPS and EAD application forms and your request is denied, you may refile your application packet with the correct fees before the filing deadline of December 21, 2015. If you attempt to submit your application with a fee waiver request before the initial filing deadline, but you receive your application back with the USCIS fee waiver denial, and there are fewer than 45 days before the filing deadline (or the deadline has passed), you may still refile your application within the 45-day period after the date on the USCIS fee waiver denial notice. You must include the correct fees or file a new fee waiver request. Your application will not be rejected even if the deadline has passed, provided it is mailed within those 45 days and all other required information for the application is included. Please be aware that if you re-file your TPS application packet with a new fee waiver request after the deadline based on this guidance and that new fee waiver request is denied, you cannot re-file again. **Note:** Alternatively, you may pay the TPS application fee and biometrics fee (if age 14 or older) but wait to request an EAD and pay the EAD application fee after USCIS grants your TPS application.

### **Mailing Information**

Mail your application for TPS to the proper address in Table 1.

**Table 1-Mailing Addresses**

If you:	Then mail your application to:
Would like to send your application by U.S. Postal Service	USCIS P.O. Box 7555 Chicago, IL 60680
Would like to send your application by non-U.S. Postal Service courier	Attn: Nepal TPS 131 S. Dearborn 3 <sup>rd</sup> Floor Chicago, IL 60603

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA), and you wish to request an EAD, please mail your application to the appropriate mailing address in Table 1. After you submit your EAD application and receive a USCIS receipt number, please send an e-mail to the Service Center handling your application. The e-mail should include the receipt number and state that you submitted a request for an EAD based on an IJ/BIA grant of TPS. This will aid in the verification of your grant of TPS and processing of your EAD application, as USCIS may not have received records of your grant of TPS by either the IJ or the BIA. To obtain additional information, including the e-mail address of the appropriate Service Center, you may go to the USCIS TPS Web page at <http://www.uscis.gov/tps>.

**E-Filing**

You cannot electronically file your application packet when applying for initial registration for TPS. Please mail your application packet to the mailing address listed in Table 1.

**Supporting Documents**

What type of basic supporting documentation must I submit?

To meet the basic eligibility requirements for TPS, you must submit evidence that you:

- Are a national of Nepal or an alien having no nationality who last habitually resided in Nepal.

Such documents may include a copy of your passport if available, other documentation issued by the Government of Nepal showing your nationality (e.g., national identity card, official travel documentation issued by the Government of Nepal), and/or your birth certificate with English translation accompanied by photo identification. USCIS will also consider certain forms of secondary evidence supporting your Nepalese nationality. If the evidence presented is insufficient for USCIS to make a determination as to your nationality, USCIS may request additional evidence. If you cannot provide a passport, birth certificate with photo identification, or a national identity document with your photo or fingerprint, you must submit an affidavit showing proof of your unsuccessful efforts to obtain such documents and affirming that you are a national of Nepal. However, please be aware that an interview with an immigration officer will be required if you do not present any documentary proof of identity or nationality or if USCIS otherwise requests a personal appearance. See 8 CFR 103.2(b)(9), 244.9(a)(1);

- Have continuously resided in the United States since **[Insert date of publication in the FEDERAL REGISTER]**. See INA section 244(c)(1)(A)(ii); 8 U.S.C. 1254a(c)(1)(A)(ii); 8 CFR 244.9(a)(2); and
- Have been continuously physically present in the United States since **[Insert date of publication in the FEDERAL REGISTER]**, the effective date of the designation of Nepal. See INA sections 244(b)(2)(A), (c)(1)(A)(i); 8 U.S.C. 1254a(b)(2)(A), (c)(1)(A)(i).

You must also submit two color passport-style photographs of yourself. The filing instructions on the Application for Temporary Protected Status (Form I-821) list all the documents needed to establish basic eligibility for TPS. You may also find information on the acceptable documentation and other requirements for applying for TPS on the USCIS Web site at [www.uscis.gov/tps](http://www.uscis.gov/tps) under “TPS Designated Country: Nepal.”

Do I need to submit additional supporting documentation?

If one or more of the questions listed in Part 4, Question 2 of the Application for Temporary Protected Status (Form I-821) applies to you, then you must submit an explanation on a separate sheet(s) of paper and/or additional documentation. Depending on the nature of the question(s) you are addressing, additional documentation alone may suffice, but usually a written explanation will also be needed.

**Employment Authorization Document (EAD)**

How can I obtain information on the status of my EAD request?

To obtain case status information about your TPS application, including the status of a request for an EAD, you can check Case Status Online, available at the USCIS Web site at <http://www.uscis.gov>, or call the USCIS National Customer Service Center at 800-375-5283 (TTY 800-767-1833). If your Form I-765 Application for Employment Authorization has been pending for more than 90 days, and you still need assistance, you may request an EAD inquiry appointment with USCIS by using the InfoPass system at <https://infopass.uscis.gov>. However, we strongly encourage you first to check Case Status Online or call the USCIS National Customer Service Center for assistance before making an InfoPass appointment.

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification (Form I-9)?

You can find a list of acceptable document choices on the “List of Acceptable Documents” for Employment Eligibility Verification (Form I-9). You can find additional detailed information on the USCIS I-9 Central Web page at <http://www.uscis.gov/I-9Central>. Employers are required to verify the identity and employment authorization of all new employees by using the Employment Eligibility Verification (Form I-9). Within 3 days of hire,

an employee must present proof of identity and employment authorization to his or her employer.

You may present any document from List A (reflecting both your identity and employment authorization), or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). You may present an acceptable receipt for List A, List B, or List C documents as described in the Form I-9 Instructions; the receipt for the application for replacement of a lost, stolen, or damaged employment authorization document is acceptable. A receipt for the application for an initial or renewal employment authorization is not an acceptable receipt. An EAD is an acceptable document under “List A.” Employers may not reject a document based on a future expiration date.

Can my employer require that I produce any other documentation to prove my current TPS status, such as proof of my Nepalese citizenship or proof that I have registered for TPS?

No. When completing the Employment Eligibility Verification (Form I-9), including re-verifying employment authorization, employers must accept any documentation that appears on the “Lists of Acceptable Documents” for Employment Eligibility Verification (Form I-9) that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers may not request documentation that does not appear on the “Lists of Acceptable Documents.” Therefore, employers may not request proof of Nepalese citizenship or proof of TPS registration when completing the Employment Eligibility Verification (Form I-9) for new hires or reverifying the employment authorization of current employees. If presented with EADs that are unexpired on their face, employers should accept such EADs as valid “List A” documents so long as the EADs reasonably appear to be genuine and to relate to the employee. Refer to the “Note to All Employees” section for important information about your

rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you because of your citizenship status, immigration status, or national origin.

### **Note to All Employers**

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888-464-4218 (TTY 877-875-6028) or e-mail USCIS at [I-9Central@dhs.gov](mailto:I-9Central@dhs.gov). Calls and e-mails are accepted in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process, employers may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline at 800-255-8155 (TTY 800-237-2515), which offers language interpretation in numerous languages, or e-mail OSC at [oscrt@usdoj.gov](mailto:oscrt@usdoj.gov).

### **Note to Employees**

For general questions about the employment eligibility verification process, employees may call USCIS at 888-897-7781 (TTY 877-875-6028) or e-mail at [I-9Central@dhs.gov](mailto:I-9Central@dhs.gov). Calls are accepted in English and many other languages. Employees or applicants may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Worker Information Hotline at 800-255-7688 (TTY 800-237-2515) for information regarding employment discrimination based upon citizenship status, immigration status, or national origin, or for information regarding discrimination related to

Employment Eligibility Verification (Form I-9) and E-Verify. The OSC Worker Information Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt described in the Employment Eligibility Verification (Form I-9) Instructions. Employers may not require extra or additional documentation beyond what is required for Employment Eligibility Verification (Form I-9) completion. Further, employers participating in E-Verify who receive an E-Verify case result of “Tentative Nonconfirmation” (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from Employment Eligibility Verification (Form I-9) differs from Federal or state government records.

Employers may not terminate, suspend, delay training, withhold pay, lower pay, or take any adverse action against an employee based on the employee’s decision to contest a TNC or because the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify an employee’s employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888-897-7781 (TTY 877-875-6028). An employee who believes he or she was discriminated against by an employer in the E-Verify process based on citizenship status, immigration status, or national origin, may contact OSC’s Worker Information Hotline at 800-255-7688 (TTY 800-237-2515). Additional information about proper nondiscriminatory Employment Eligibility Verification (Form I-9) and E-Verify procedures is available on the OSC Website at <http://www.justice.gov/crt/about/osc/> and the

USCIS Web site at <http://www.dhs.gov/E-verify>.

### **Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)**

While Federal Government agencies must follow the guidelines laid out by the Federal, State, and local government agencies establish their own rules and guidelines when granting certain benefits. Each State may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, State, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples are:

- (1) Your EAD that has a valid expiration date;
- (2) A copy of your Notice of Action (Form I-797C) showing approval for TPS, if you receive one from USCIS.

Check with the government agency regarding which document(s) the agency will accept. You may also provide the agency with a copy of this [Federal Register](#) Notice.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to verify the current immigration status of applicants for public benefits. If such an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request to correct records under the

Freedom of Information Act can be found at the SAVE Web site at <http://www.uscis.gov/save>, then by choosing “How to Correct Your Records” from the menu on the right.

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